



**In The Matter Of:**

*Janice McCollum v.  
Amtren*

---

*Janice McCollum  
October 25, 2006*

---

*Jennifer Davis, CSR*

Original File MCCOLLUM.v1, Pages 1-194

**Word Index included with this Min-U-Script®**

Janice McCollum v.  
AmtrenJanice McCollum  
October 25, 2006

Page 1

Page 3

[1] IN THE UNITED STATES DISTRICT COURT  
[2] FOR THE MIDDLE DISTRICT OF ALABAMA  
[3] NORTHERN DIVISION

[5] CASE NUMBER  
[6] 05-cv-0326-W  
[7] (JURY DEMAND)

[9] JANICE McCOLLUM,  
[10] Plaintiff,  
[11] vs.  
[12] AMTREN, INC.,  
[13] Defendant.

[16] DEPOSITION TESTIMONY OF:  
[17] JANICE McCOLLUM

[19] October 25, 2006  
[20] 9:00 a.m.

[22] COURT REPORTER:  
[23] JENNIFER DAVIS, CSR

Jennifer Davis, CSR  
334-612-9967

[1] the time of trial or at the time said  
[2] deposition is offered in evidence, or prior  
[3] thereto.

[6] EXAMINATION BY: I N D E X PAGE NO.  
[7] MR. TRAWICK 6-193  
[8] CERTIFICATE 194

[10] INDEX OF EXHIBITS  
[11] EXHIBITS PAGE NO.  
[12] DX 1 - response to defendant's 8  
interrogatories  
[13] DX 2 - notice of deposition 9  
[14] DX 3 - 3/30/05 letter 73  
[15] DX 4 - charge of discrimination 90  
[16] DX 5 - IRS document 117  
[17] DX 6 - IRS document 127  
[18] DX 7 - IRS document 134  
[19] DX 8 - IRS document 138  
[20] DX 9 - IRS document 139  
[21] DX 10 - IRS document 143  
[22] DX 11 - IRS document 145

Jennifer Davis, CSR  
334-612-9967

Page 2

Page 4

[1] S T I P U L A T I O N  
[2] IT IS STIPULATED AND AGREED by and  
[3] between the parties through their respective  
[4] counsel that the deposition of JANICE  
[5] McCOLLUM, may be taken before Jennifer  
[6] Davis, Certified Shorthand Reporter and  
[7] Notary Public, State at Large, at the  
[8] offices of Slaten & O'Connor, 105 Tallapoosa  
[9] Street, Montgomery, Alabama, on October 25,  
[10] 2006, commencing at approximately 9:00 a.m.

[11] IT IS FURTHER STIPULATED AND AGREED  
[12] that the signature to and the reading of the  
[13] deposition by the witness is hereby waived,  
[14] the deposition to have the same force and  
[15] effect as if full compliance had been had  
[16] with all laws and rules of Court relating to  
[17] the taking of depositions.

[18] IT IS FURTHER STIPULATED AND AGREED  
[19] that it shall not be necessary for any  
[20] objections to be made by counsel to any  
[21] questions, except as to form or leading  
[22] questions, and that counsel for the parties  
[23] may make objections and assign grounds at

Jennifer Davis, CSR  
334-612-9967

[1] INDEX OF EXHIBITS (continued)  
[2] EXHIBITS PAGE NO.  
[3] DX 12 - Blue Cross Blue Shield of 149  
Alabama group invoice  
[4] DX 13 - Blue Cross Blue Shield of 150  
Alabama group invoice  
[5] DX 14 - Chase Merchant Services 159  
document  
[6] DX 15 - lease agreement 176  
[7] DX 16 - Wilson Price invoices 178

Jennifer Davis, CSR  
334-612-9967

Janice McCollum v.  
Amtren

Janice McCollum  
October 25, 2006

Page 5

Page 7

[1] A P P E A R A N C E S  
[2]  
[3] FOR THE PLAINTIFF:  
[4] JIMMY D. JACOBS, ESQUIRE  
[5] Attorney at Law  
[6] 143 Eastern Boulevard  
[7] Montgomery, Alabama 36117  
[8]  
[9]  
[10] FOR THE DEFENDANT:  
[11] G.R. "RICK" TRAWICK, ESQUIRE  
[12] Slaten & O'Connor  
[13] Winter Loeb Building  
[14] 105 Tallapoosa Street  
[15] Suite 101  
[16] Montgomery, Alabama 36104  
[17]  
[18]  
[19]  
[20]  
[21]  
[22]  
[23]  
  
Jennifer Davis, CSR  
334-612-9967

[1] Q. Ms. McCollum, my name is Rick  
[2] Trawick. I represent Amtren in the lawsuit  
[3] that you filed against that corporation, and  
[4] I will be asking you some questions today.  
[5] If you do not understand one of my  
[6] questions, let me know, and I will attempt  
[7] to rephrase that question. If I ask you a  
[8] question and you answer the question, is it  
[9] fair to assume that you understood the  
[10] question?  
[11] A. That would be fair.  
[12] Q. Is there any reason that you  
[13] cannot truthfully and completely answer my  
[14] questions today?  
[15] A. Not that I am aware of.  
[16] Q. You're not taking any medication  
[17] or anything today that would hinder your  
[18] ability to answer my questions; is that  
[19] correct?  
[20] A. Not that I'm aware of that would  
[21] hinder my abilities.  
[22] MR. TRAWICK: Jimmy, you told me  
[23] that you would give me a signed copy of your

Page 6

Page 8

[1] I, Jennifer Davis, a Certified  
[2] Shorthand Reporter of Millbrook, Alabama,  
[3] and a Notary Public for the State of Alabama  
[4] at Large, acting as Commissioner, certify  
[5] that on this date, pursuant to the Federal  
[6] Rules of Civil Procedure, and the foregoing  
[7] stipulation of counsel, there came before me  
[8] at the offices of Slaten & O'Connor, 105  
[9] Tallapoosa Street, Montgomery, Alabama,  
[10] commencing at approximately 9:00 a.m. on  
[11] October 25, 2006, JANICE McCOLLUM, witness  
[12] in the above cause, for oral examination,  
[13] whereupon the following proceedings were  
[14] had:  
[15]  
[16] JANICE McCOLLUM,  
[17] having first been duly sworn, was examined  
[18] and testified as follows:  
[19] EXAMINATION  
[20] BY MR. TRAWICK:  
[21] Q. State your name for the record,  
[22] please.  
[23] A. Janice McCollum.

[1] interrogatories.  
[2] MR. JACOBS: The only copy that  
[3] I have with me is the one that we sent. I  
[4] can get that signed if we can make another  
[5] copy of it, or if you have a copy, we will  
[6] have her sign it.  
[7] MR. TRAWICK: I have a copy.  
[8] Let me mark this as Defendant's Exhibit 1.  
[9] It is pages one through six of the  
[10] plaintiff's response to defendant's  
[11] interrogatories.  
[12] (Whereupon, a document was  
[13] marked as Defendant's Exhibit 1 and is  
[14] attached to the original transcript.)  
[15] MR. TRAWICK: Is that document a  
[16] complete copy of the plaintiff's response to  
[17] defendant's interrogatories?  
[18] MR. JACOBS: It appears to be to  
[19] me, except that she needs to sign.  
[20] Q. (By Mr. Trawick) Have you had  
[21] an opportunity to review those responses,  
[22] Ms. McCollum?  
[23] A. Yes.

Page 25

Page 27

[1] A. Correct.

[2] Q. Why did you voluntarily leave

[3] Thermalex?

[4] A. Because I thought I might be

[5] laid off.

[6] Q. Did you have another position to

[7] go to?

[8] A. Yes.

[9] Q. Which one?

[10] A. Amtren.

[11] Q. Had you accepted a position with

[12] Amtren before you resigned from Thermalex?

[13] A. I did.

[14] Q. Tell me about how you learned

[15] about the position at Amtren.

[16] A. Newspaper ad.

[17] Q. What process did you go through

[18] to apply for this job?

[19] A. I sent a resume.

[20] Q. To whom?

[21] A. To Amtren.

[22] Q. Do you recall any particular

[23] person, or was it just addressed to the

[1] receive the position?

[2] Q. Yes.

[3] A. Okay. Contacted me to set up a

[4] telephone interview. I went through a

[5] telephone interview with him, and then I

[6] went through a formal interview with him. I

[7] don't recall how much time it took exactly

[8] before he called me and offered me the

[9] position.

[10] Q. Did you interview with anyone

[11] else at Amtren?

[12] A. Not that I recall.

[13] Q. And when did you start working

[14] for Amtren?

[15] A. I believe it was --

[16] Q. The month and year would be

[17] sufficient.

[18] A. Okay. January of 2004.

[19] Q. And what position did you accept

[20] with Amtren?

[21] A. Accounting manager.

[22] Q. What was your understanding of

[23] your duties as the accounting manager at

Page 26

Page 28

[1] corporation?

[2] A. I don't recall.

[3] Q. If you will, just generally tell

[4] me, from the time you sent the resume to

[5] Amtren in response to the ad in the

[6] newspaper and the time that you were offered

[7] the position, what process was followed in

[8] your employment.

[9] A. Okay. Please restate that

[10] question.

[11] Q. From the time you sent the

[12] resume to Amtren until you were offered a

[13] position, just tell me the process that was

[14] followed for you -- by you to obtain that

[15] job.

[16] A. I received a call from Kirk

[17] Lamberth.

[18] Q. Lamberth?

[19] A. I believe it was a call. Hold

[20] on a minute. There was contact by Kirk

[21] Lamberth to me to set up a telephone

[22] interview. Are you asking me how I received

[23] the position? What happened and how did I

[1] Amtren?

[2] A. My understanding would be to

[3] perform the accounting functions for that

[4] business, help with projections, and help

[5] with some analysis.

[6] Q. Anything else?

[7] A. Not that I can think of.

[8] Q. What do you mean by perform

[9] accounting functions for the business?

[10] A. I mean, produce financial

[11] statements, book journal entries.

[12] Q. Let me ask you to assume that

[13] the person reading this deposition is not an

[14] accountant.

[15] A. Okay.

[16] Q. I'm not an accountant. It will

[17] help if you explain what you mean by journal

[18] entries and things like that.

[19] A. Journal entries, those would be

[20] entries that would be made to the accounting

[21] system by way of a double entry system,

[22] debits and credits.

[23] Q. Accounts receivable and accounts

Page 53

Page 55

[1] difference. But, there again, I would need  
[2] to see the documentation.

[3] Q. And it's your testimony that the  
[4] vendor submitted an invoice at the higher  
[5] price, which was incorrect, and you did not  
[6] bring this to the attention of Mr. Lamberth;  
[7] is that correct?

[8] A. That would be correct. I must  
[9] state I did not know that at the time,  
[10] either.

[11] Q. Did not know what?

[12] A. That -- let me rephrase that.

[13] The price on the invoice was paid at the  
[14] invoice price; the error was later caught; I  
[15] corrected it.

[16] Q. Is it correct that the price on  
[17] the invoice that you paid was at the higher  
[18] price and not the lower price?

[19] A. Yes.

[20] Q. Therefore, the invoice was  
[21] incorrect. Is that a fair statement?

[22] A. I would say.

[23] Q. And it's your testimony that you

[1] to think about it. I believe so. I would  
[2] like to see it on the documentation.

[3] Q. I'm asking you what you recall  
[4] today, Ms. McCollum.

[5] A. Okay. That's all I recall.

[6] Q. What dollar amount was the error  
[7] involving?

[8] A. I'd need to see. I'm not sure  
[9] exactly what it was.

[10] Q. Several thousand dollars?

[11] A. Yeah. Uh-huh.

[12] Q. Would you agree that an error in  
[13] a price invoice from the vendor that  
[14] resulted in the company paying several  
[15] thousand dollars more than it should have is  
[16] a significant error?

[17] A. No.

[18] Q. I'm not asking if it is a  
[19] significant error on your part. I'm asking  
[20] if you would agree that it's a significant  
[21] error on the price --

[22] A. I would not agree.

[23] Q. Let me finish my question -- the

Page 54

Page 56

[1] spoke with someone at Plextor about this  
[2] incorrect invoice?

[3] A. I did.

[4] Q. And you do not recall the name  
[5] of the person who you spoke with; is that  
[6] correct?

[7] A. That's correct.

[8] Q. And you testified that the error  
[9] was caught. How was the error caught?

[10] A. From what I recall, after I was  
[11] -- I realized that the price should have  
[12] been the lower price, and I reviewed -- I  
[13] did a review of checks and that sort of  
[14] thing, and I saw that the -- it was at the  
[15] higher price, so I corrected it.

[16] Q. How did you learn that the price  
[17] should have been lower?

[18] A. I don't recall all the steps. I  
[19] just don't recall them all.

[20] Q. You don't recall how you learned  
[21] that the price should have been lower?

[22] A. I believe it was through

[23] Mr. Lamberth, but I don't really -- I've got

[1] price of the vendor.

[2] A. Okay. Say it again, please.

[3] Q. Would you agree that an invoice  
[4] that had the wrong price, which caused the  
[5] company to pay several thousand dollars more  
[6] than it should have, was a significant error  
[7] on the part of the vendor?

[8] A. A significant error on the part  
[9] of the vendor? Probably.

[10] Q. And you didn't bring this to the  
[11] attention of Mr. Lamberth; is that correct?

[12] A. I believe I have stated that I  
[13] found the error; I corrected the error; I  
[14] did not tell Mr. Lamberth about it at that  
[15] particular time.

[16] Q. Did all future invoices from  
[17] this vendor contain the new price which was  
[18] lower?

[19] A. I don't know. I'd have to see  
[20] invoices.

[21] Q. Do you recall making any other  
[22] payments to this vendor that --

[23] A. I'd have to see them.

<p style="text-align: right;">Page 57</p> <p>[1] Q. That's not my question, [2] Ms. McCollum. Listen to my question. It's [3] a very simple question. [4] A. Okay. [5] Q. Do you recall after this -- [6] after making payment to this vendor at the [7] incorrect price, any other invoices that [8] were received from this same vendor that [9] contained the incorrect price? [10] A. I don't recall. [11] Q. In response to the [12] interrogatory, you state that other male and [13] white employees, who held a professional [14] position such as myself, were not treated in [15] the same manner. What do you mean by that [16] statement? [17] A. I mean that other male [18] employees, for example, David Fields, who [19] made an error -- an inventory error -- was [20] not terminated. There are three engineers [21] that work there, male, who have made [22] mistakes and errors costing the company. [23] They have not been terminated.</p>	<p style="text-align: right;">Page 59</p> <p>[1] Q. How did you learn of David's [2] termination? [3] A. I don't recall. I don't [4] remember exactly how. [5] Q. When Mr. Lamberth allegedly had [6] this conversation with you about David [7] Fields, did you ask what type of inventory [8] error? [9] A. I don't recall. [10] Q. Do you know what type of [11] inventory error David made? [12] A. I believe it was on some -- I'm [13] not sure exactly. I'm not sure exactly. [14] Q. Do you recall anything else [15] about the conversation with Mr. Lamberth [16] regarding this error that David Fields made? [17] A. I don't recall. [18] Q. Yes or no. Do you recall [19] anything else about the conversation with [20] Mr. Lamberth regarding the error that you [21] contend -- [22] A. I cannot -- [23] Q. Let me finish my question,</p>
<p style="text-align: right;">Page 58</p> <p>[1] Q. Anyone else? [2] A. Not that I recall. [3] Q. How did you learn of David [4] Fields making the inventory error? [5] A. Through Mr. Lamberth and other [6] employees. [7] Q. What did Mr. Lamberth tell you [8] about this? [9] A. That David Fields made a large [10] inventory error. [11] Q. Did he tell you anything else? [12] A. Not that I recall. [13] Q. When was this error made? [14] A. I don't know. [15] Q. Before you were terminated, I [16] assume? [17] A. Yes. [18] Q. When you left Amtren, was David [19] still employed? [20] A. Yes. [21] Q. Do you know if David has [22] subsequently been terminated? [23] A. Yes, I believe he has.</p>	<p style="text-align: right;">Page 60</p> <p>[1] Ms. McCollum. This lady can't take both of [2] us talking at the same time. [3] A. Okay. [4] Q. Do you recall anything else [5] about the conversation with Mr. Lamberth [6] wherein you allege that he told you about [7] this error that David Fields made? [8] A. No. [9] Q. Are you aware of any other [10] errors that David Fields made? [11] A. I don't recall. [12] Q. Do you know if the error that [13] David Fields made cost the company any [14] money? [15] A. Seventy thousand dollars. [16] Q. How do you know it cost the [17] company seventy thousand dollars? [18] A. That is what I was told. [19] Q. Told by whom? [20] A. Kirk Lamberth. [21] Q. So you do remember something [22] else about the conversation? [23] A. Yes, sir.</p>



<p style="text-align: right;">Page 85</p> <p>[1] A. The actions. Okay.</p> <p>[2] Q. Let me give you an opportunity</p> <p>[3] to review your answer.</p> <p>[4] A. (Witness reviews document.)</p> <p>[5] Okay.</p> <p>[6] Q. In your answer, you state you</p> <p>[7] were expected to make coffee on a number of</p> <p>[8] occasions. Did anyone else make coffee?</p> <p>[9] A. Probably.</p> <p>[10] Q. Any males make coffee?</p> <p>[11] A. In what time frame?</p> <p>[12] Q. Any time frame that you worked</p> <p>[13] there.</p> <p>[14] A. Let's see. Maybe after the</p> <p>[15] coffee service, but I don't really --</p> <p>[16] Q. Did you ever observe any males</p> <p>[17] at Amtren, during the time that you worked</p> <p>[18] there, make coffee?</p> <p>[19] A. Yes.</p> <p>[20] Q. Did you observe any males make</p> <p>[21] coffee during meetings?</p> <p>[22] A. I don't recall.</p> <p>[23] Q. May have, but you just don't</p>	<p style="text-align: right;">Page 87</p> <p>[1] Q. Anyone else ever order lunches</p> <p>[2] for the staff or for business meetings?</p> <p>[3] A. Probably. I don't know who they</p> <p>[4] were.</p> <p>[5] Q. Any males?</p> <p>[6] A. May have.</p> <p>[7] Q. You make the statement that male</p> <p>[8] management employees were never assigned</p> <p>[9] such duties nor was such an expectation of</p> <p>[10] their employment by Mr. Lamberth.</p> <p>[11] A. Okay. Say that again, please.</p> <p>[12] Where is that?</p> <p>[13] Q. It's in your answer.</p> <p>[14] A. Okay. Which one? I'm sorry.</p> <p>[15] Unless you want me to read --</p> <p>[16] Q. In your response to</p> <p>[17] interrogatory number four, you make the</p> <p>[18] statement, male management employees were</p> <p>[19] never assigned such duties, nor were such an</p> <p>[20] expectation of employment by Mr. Lamberth.</p> <p>[21] Did I read that correctly?</p> <p>[22] A. Yes.</p> <p>[23] Q. Do you stand by that statement?</p>
<p style="text-align: right;">Page 86</p> <p>[1] recall?</p> <p>[2] A. Uh-huh.</p> <p>[3] Q. Did you ever observe</p> <p>[4] Mr. Lamberth making coffee?</p> <p>[5] A. Probably.</p> <p>[6] Q. Okay. You further state that</p> <p>[7] you were directed by Mr. Lamberth to order</p> <p>[8] and serve lunch when we had employee</p> <p>[9] lunches. What do you mean by serve lunch?</p> <p>[10] A. Basically set all of it up.</p> <p>[11] Q. What do you mean by set all of</p> <p>[12] it up?</p> <p>[13] A. The food, the plates, the</p> <p>[14] silverware, that sort of thing.</p> <p>[15] Q. Was it served buffet style?</p> <p>[16] A. Most of the time, yes.</p> <p>[17] Q. And the lunch was ordered from</p> <p>[18] restaurants?</p> <p>[19] A. Yes.</p> <p>[20] Q. So is it correct you picked up</p> <p>[21] the phone and placed an order for an</p> <p>[22] employee lunch?</p> <p>[23] A. I did do that.</p>	<p style="text-align: right;">Page 88</p> <p>[1] A. I do.</p> <p>[2] Q. I think you just testified other</p> <p>[3] male employees made coffee, other male</p> <p>[4] employees ordered lunch. How did that</p> <p>[5] differ from what you did?</p> <p>[6] A. I said they may have, you know.</p> <p>[7] How did that differ?</p> <p>[8] Q. Yes.</p> <p>[9] A. When coffee was not made when we</p> <p>[10] had customers or guests, Mr. Lamberth became</p> <p>[11] very irate at me.</p> <p>[12] Q. What did he do?</p> <p>[13] A. He became irate, angry at me.</p> <p>[14] Q. What did he say?</p> <p>[15] A. I don't recall exactly his</p> <p>[16] words. It was more of his actions. Things</p> <p>[17] like, you know, no coffee's made, or just</p> <p>[18] very angry and his tone of voice. He became</p> <p>[19] angry at me, not other male employees.</p> <p>[20] Q. Did you ever have any</p> <p>[21] discussions with Mr. Lamberth about this?</p> <p>[22] A. No. I did what he asked me to</p> <p>[23] do.</p>

Page 89

Page 91

[1] Q. It's a fair statement you never  
[2] told Mr. Lamberth, I don't think I should be  
[3] making coffee, and I shouldn't be ordering  
[4] lunch?  
[5] A. That's a fair statement.  
[6] Q. You didn't tell Mr. Lamberth  
[7] that, then? Is that your testimony?  
[8] A. Right. I did not tell him that,  
[9] no. Is that what you're asking?  
[10] Q. Yes. Did you tell Mr. Lamberth,  
[11] I don't think I should be making coffee; I  
[12] don't think I should be ordering lunch?  
[13] A. No.  
[14] Q. And, to your knowledge, you  
[15] don't have any knowledge as to whether or  
[16] not any other male employees made coffee or  
[17] ordered lunch; is that correct?  
[18] A. I said they may have.  
[19] Q. Let me show you what has been  
[20] marked as Defendant's Exhibit 4, which  
[21] appears to be a copy of the charge of  
[22] discrimination that you filed with the Equal  
[23] Employment Opportunity Commission.

[1] A. I am an Asian.  
[2] Q. Korean?  
[3] A. Yes.  
[4] Q. And you have also alleged sex,  
[5] which is obviously female; is that correct?  
[6] A. Correct.  
[7] Q. And you also allege national  
[8] origin. What is your national origin you  
[9] are contending you were discriminated  
[10] against?  
[11] A. Asian.  
[12] Q. Again, Korean?  
[13] A. Uh-huh.  
[14] Q. You know Lisa McNamee, don't  
[15] you?  
[16] A. Yes.  
[17] Q. Is she part Korean?  
[18] A. I believe she is.  
[19] Q. And is it correct that she was  
[20] hired at Amtren while you were still working  
[21] there?  
[22] A. Yes.  
[23] Q. And I believe you previously

Page 90

Page 92

[1] (Whereupon, a document was  
[2] marked as Defendant's Exhibit 4 and is  
[3] attached to the original transcript.)  
[4] A. Uh-huh.  
[5] Q. Is that your handwriting?  
[6] A. The signature?  
[7] Q. Yes.  
[8] A. Yes.  
[9] Q. The date on that is May 19,  
[10] 2005; is that correct?  
[11] A. Uh-huh.  
[12] Q. At the time you filed this, did  
[13] you have a lawyer?  
[14] THE WITNESS: Both you and I put  
[15] that together.  
[16] A. Uh-huh.  
[17] Q. Is it correct that your  
[18] attorney, Mr. Jacobs, assisted you in  
[19] drafting this document?  
[20] A. Yes.  
[21] Q. In this document, you have  
[22] alleged that the cause of discrimination is  
[23] based upon color. What do you mean by that?

[1] testified that Lisa -- you worked with Lisa;  
[2] is that correct?  
[3] A. Yes.  
[4] Q. Did you supervise Lisa?  
[5] A. To some extent. Both  
[6] Mr. Lamberth and myself.  
[7] Q. Do you know who hired Lisa?  
[8] A. Myself and Mr. Lamberth.  
[9] Q. Did you have the authority to  
[10] hire Lisa without Mr. Lamberth's approval?  
[11] A. No.  
[12] Q. Is it a correct statement, then,  
[13] that Mr. Lamberth had the authority to hire  
[14] new employees at Amtren?  
[15] A. Yes.  
[16] Q. When you left Amtren, was Lisa  
[17] still working there?  
[18] A. Yes.  
[19] Q. When you worked with Lisa, what  
[20] were Lisa's duties?  
[21] A. Data entry.  
[22] Q. Into Mas90?  
[23] A. Into whatever system was there.



Page 93

Page 95

[1] Q. Do you recall if Mas90 was --  
 [2] A. I believe it was, but I would  
 [3] need to look at all those to make sure.  
 [4] Whatever accounting system, it's data entry.  
 [5] Q. What type of data would she  
 [6] enter into the accounting system?  
 [7] A. Invoices.  
 [8] Q. Anything else?  
 [9] A. I don't remember everything.  
 [10] But I know it was invoices, customer  
 [11] purchase orders.  
 [12] Q. Anything else?  
 [13] A. Not that -- it was mostly --  
 [14] distribution of mail.  
 [15] Q. I didn't make myself very  
 [16] clear. Any other type of data entry that  
 [17] Lisa did into the accounting system other  
 [18] than invoices and customer purchase orders?  
 [19] A. I thought you said what her  
 [20] duties were.  
 [21] Q. I did first. But you said data  
 [22] entry, and I'm asking you about what type of  
 [23] data did she enter into the system, and you

[1] record.  
 [2] (Off-the-record discussion.)  
 [3] (Lunch recess.)  
 [4] Q. (By Mr. Trawick) Ms. McCollum,  
 [5] let me direct your attention to Defendant's  
 [6] Exhibit 4, which is a copy of the charge of  
 [7] discrimination that you filed. In the  
 [8] factual part of the charge you state,  
 [9] Mr. Lamberth began to give me sexually  
 [10] stereotypical duties, e.g., ordering lunch.  
 [11] Previously you've testified about ordering  
 [12] lunch and making coffee and setting up for  
 [13] the lunches. Anything else you're referring  
 [14] to as sexually stereotypical duties?  
 [15] A. Not that I can think of.  
 [16] Q. You go on to state that you were  
 [17] troubled by these assignments and comments  
 [18] made by the company president. What  
 [19] comments are you making reference to?  
 [20] A. He made a comment that he was a  
 [21] chauvinist and that he knew it all. We were  
 [22] invited to a luncheon with the two people  
 [23] from Walker Personnel, both female. I asked

Page 94

Page 96

[1] told me invoices and customer purchase  
 [2] orders. And my question now is, any other  
 [3] type of data that she entered into the  
 [4] system?  
 [5] A. Not that I can recall.  
 [6] Q. Do you recall if Lisa was there  
 [7] when this error with Plextor was made and  
 [8] caught by you?  
 [9] A. I don't.  
 [10] Q. What other type of duties did  
 [11] Lisa perform other than data entry?  
 [12] A. Mail distribution and answering  
 [13] the phone.  
 [14] Q. Anything else that you recall?  
 [15] A. Not that I recall right now.  
 [16] Q. Did she perform duties as  
 [17] assigned by you?  
 [18] A. Yes, she would.  
 [19] Q. Do you recall any other duties  
 [20] that you may have assigned her?  
 [21] A. No, not that I can recall right  
 [22] offhand.  
 [23] MR. TRAWICK: Let's go off the

[1] Mr. Lamberth if he would like to attend. He  
 [2] stated for me just to take Jerry Weisenfeld,  
 [3] that he was a chauvinist and he knew it all,  
 [4] and he did not want to attend to lunch.  
 [5] Q. Was anyone present when  
 [6] Mr. Lamberth allegedly made these  
 [7] conversations?  
 [8] A. Other than myself?  
 [9] Q. Yes.  
 [10] A. No.  
 [11] Q. What did you understand  
 [12] Mr. Lamberth to mean by the comment he knew  
 [13] it all?  
 [14] A. It is my belief that he meant he  
 [15] really didn't have time to go to lunch with  
 [16] women, and he knew everything and it  
 [17] wouldn't benefit him.  
 [18] Q. What was the purpose of this  
 [19] luncheon with Walker Personnel?  
 [20] A. They just called and asked us to  
 [21] go to lunch because we were doing business  
 [22] with them.  
 [23] Q. And did Mr. Lamberth say that he

Page 97

Page 99

[1] didn't want to go to lunch because the  
[2] representatives from Walker Personnel were  
[3] female?  
[4] **A.** He said what I just stated.  
[5] **Q.** So it is correct that he did not  
[6] state that he did not want to go to lunch  
[7] because he would be going to lunch with  
[8] females; is that correct?  
[9] **A.** That would be correct.  
[10] **Q.** You go on to state in your  
[11] charge that in December of 2004 Mr. Lamberth  
[12] hired a man who was given the title of  
[13] business manager. Who are you making  
[14] reference to?  
[15] **A.** Jerry Weisenfeld.  
[16] **Q.** You go on to state, I believe he  
[17] terminated me because of my sex and color or  
[18] nationality; I am Asian-American. What  
[19] facts are you relying upon to make that  
[20] statement?  
[21] **A.** I was treated differently than  
[22] other male employees; that my duties were  
[23] more female stereotypical. When I was first

[1] controller-type duties.  
[2] **Q.** What are they?  
[3] **A.** Accounting functions.  
[4] **Q.** What accounting functions? That  
[5] doesn't tell me anything.  
[6] **A.** Accounts payable, accounts  
[7] receivable, software system, planning for  
[8] the future of the company, analysis. Those  
[9] type duties.  
[10] **Q.** What functions pertaining to  
[11] accounts payable are you making reference to  
[12] that you did not perform?  
[13] **A.** I'm sorry?  
[14] **MR. TRAWICK:** Read the question  
[15] back and read her answer.  
[16] (The requested portion of the  
[17] record, page 97, lines 16-23, and page 98,  
[18] lines 1-14, were read by the reporter.)  
[19] **Q.** (By Mr. Trawick) Okay. What  
[20] duties? You said accounting –  
[21] **A.** Okay. For example, this meeting  
[22] that I was not included in to re-evaluate  
[23] the line of credit planning, that was a

Page 98

Page 100

[1] brought on board with Amtren, I was told  
[2] that I would have more of the  
[3] responsibilities of helping run the business  
[4] and that sort of thing. And it is my  
[5] belief, because I am female, that he hired  
[6] Mr. Weisenfeld, because he is male, to do  
[7] those duties.  
[8] **Q.** To do what duties?  
[9] **A.** The duties that I was told that  
[10] I would have as far as the accounting  
[11] functions and the planning, that sort of  
[12] thing.  
[13] **Q.** You're going to have to list  
[14] those duties for me.  
[15] **A.** List my duties?  
[16] **Q.** No. You just testified – and  
[17] I'll have the court reporter read it back if  
[18] you want. But you testified you believe  
[19] that Mr. Lamberth hired Jerry to do those  
[20] duties that you thought you were going to  
[21] do. I'm simply asking you what duties are  
[22] you making reference to?  
[23] **A.** I am making reference to

[1] meeting held between the banker,  
[2] Mr. Lamberth, and Jerry Weisenfeld. I am  
[3] controller at that point in time. I feel  
[4] like I should have been in that meeting.  
[5] **Q.** Anything else? You mention  
[6] accounting functions, dealing with accounts  
[7] payable.  
[8] **A.** Any accounting function. It is  
[9] my belief that Mr. Weisenfeld, like I said,  
[10] was hired to basically replace me.  
[11] **Q.** And what facts are you relying  
[12] upon for that statement, or is that just  
[13] your opinion?  
[14] **A.** Well, here's one. This is a  
[15] meeting between a banker and Mr. Lamberth,  
[16] the president of the company, and –  
[17] **Q.** Defendant's Exhibit 3?  
[18] **A.** Number 3.  
[19] **Q.** Anything else? You have said  
[20] Defendant's Exhibit 3.  
[21] **A.** Yes. Also, he was receiving  
[22] training – additional training on the Mas90  
[23] system, which was my responsibility. The

Page 101

Page 103

[1] Amtren -- Mr. Lamberth chose to pay Wilson  
[2] Price extra money to train Mr. Weisenfeld  
[3] when I could have easily shown him those  
[4] functions and that system.

[5] Q. Anything else?

[6] A. Not that I recall.

[7] Q. Okay. So we have the meeting  
[8] that took place in March 2005. It's  
[9] referenced in Defendant's Exhibit 3. We  
[10] have that Jerry Weisenfeld received training  
[11] from Bobby Lake on Mas90. Anything else?

[12] A. Not that I can think of right  
[13] now.

[14] Q. Okay. So there's nothing  
[15] dealing with the accounts payable, accounts  
[16] receivable, et cetera, that you previously  
[17] testified about?

[18] A. It's my belief that Jerry  
[19] Weisenfeld was to take my place. Accounts  
[20] payable was part of my responsibility,  
[21] therefore it would be part of his.

[22] Q. Do you have any facts upon which  
[23] you base that opinion, other than the two

[1] Q. And is it your testimony that  
[2] those five women who you cannot recall their  
[3] name at this time were not with the company  
[4] when you left; is that correct?

[5] A. As far as I can remember. I  
[6] can't remember all of it. But as far as I  
[7] can remember, they were not except for Lisa  
[8] McNamee.

[9] Q. Are you contending that  
[10] Mr. Lamberth fired these five women because  
[11] they are women after he hired them?

[12] A. Yes.

[13] Q. What facts do you base that  
[14] opinion upon?

[15] A. What he had told me, that he did  
[16] not trust me, he also told me that after  
[17] firing two, I believe. I don't recall  
[18] exactly how many of the other women. They  
[19] were doing a fine job. They were doing just  
[20] fine, and they were terminated. So I can  
[21] only assume that they were terminated due to  
[22] their sex.

[23] Q. Is it your testimony that

Page 102

Page 104

[1] things you just told me?

[2] A. That is my belief.

[3] Q. Do you have any facts to support  
[4] that belief other than the two things you  
[5] told me, one being this meeting in March  
[6] 2005 with the banker, and that Jerry  
[7] Weisenfeld received training on Mas90?

[8] A. Not at this time.

[9] Q. Okay. You go on to state that  
[10] Lamberth hired six women, only one is still  
[11] with the company. Who are those six women?

[12] A. I don't recall their names. I  
[13] don't know their names. I would need to see  
[14] payroll records.

[15] Q. You don't recall any of the  
[16] names?

[17] A. Lisa McNamee, for one.

[18] Q. And she was still with the  
[19] company when you left?

[20] A. Yes.

[21] Q. Any of the other five, do you  
[22] recall their names?

[23] A. No, not right at this time.

[1] Mr. Lamberth told you that these two women,  
[2] who you can't identify --

[3] A. Not without the payroll records.

[4] Q. You can't identify them today;  
[5] is that correct?

[6] A. Not without the payroll records.

[7] Q. That's not my question,  
[8] Ms. McCollum. Do you know their names  
[9] today?

[10] A. No. I can't recall them.

[11] Q. Then is it your testimony that  
[12] these two women who you contend were fired,  
[13] Mr. Lamberth said they were doing a good  
[14] job? Is that your testimony?

[15] A. I don't recall him saying that.

[16] Q. Okay. He didn't say that, then,  
[17] to your recollection?

[18] A. He didn't say that to me  
[19] directly.

[20] Q. Who did he say it to?

[21] A. He said it, I believe, to other  
[22] people. He would be saying what a good job  
[23] they're doing.

Page 113

Page 115

[1] product; is that correct?  
 [2] **A.** It wasn't always that way when I  
 [3] was there.  
 [4] **Q.** How was it then?  
 [5] **A.** It was all in one building when  
 [6] I was there. Maybe those changes have come  
 [7] forth since.  
 [8] **Q.** Okay. Is it a correct  
 [9] statement, other than Jerry, David, Steve,  
 [10] Mike, and John, you don't know what these  
 [11] other males did?  
 [12] **A.** Some of them were in production,  
 [13] some of them were in customer service.  
 [14] **Q.** You go on to state, since  
 [15] leaving the company, I have learned that  
 [16] Lamberth expressed his bias against women  
 [17] and persons of color to other management  
 [18] staff. Who told you that?  
 [19] **A.** Mike Bishop.  
 [20] **Q.** Is this the Mike you couldn't  
 [21] remember his last name a minute ago, the  
 [22] engineer?  
 [23] **A.** No.

[1] cause you to make this statement that  
 [2] Lamberth expressed bias against women and  
 [3] persons of color?  
 [4] **A.** That he had –  
 [5] **Q.** He who?  
 [6] **A.** Mike Bishop had heard Kirk  
 [7] Lamberth make racial slurs.  
 [8] **Q.** Did he tell you what racial  
 [9] slurs?  
 [10] **A.** No, he did not.  
 [11] **Q.** Did you ask?  
 [12] **A.** I believe I did.  
 [13] **Q.** And you – what did Mike tell  
 [14] you when you asked?  
 [15] **A.** He didn't tell me what he said.  
 [16] **Q.** Did he tell you he couldn't  
 [17] recall?  
 [18] **A.** He just didn't tell me.  
 [19] **Q.** What else did Mike tell you that  
 [20] he heard Kirk say?  
 [21] **A.** That's all I can remember at  
 [22] this time.  
 [23] **Q.** Have you ever heard Kirk make

Page 114

Page 116

[1] **Q.** Mike Bishop is someone else?  
 [2] **A.** Yes.  
 [3] **Q.** Did Mike Bishop work at Amtren?  
 [4] **A.** Yes.  
 [5] **Q.** What was his position?  
 [6] **A.** He was, I believe, the  
 [7] operations manager.  
 [8] **Q.** Who else?  
 [9] **A.** Who else what?  
 [10] **Q.** Anyone else tell you this?  
 [11] **A.** No.  
 [12] **Q.** Is Mike Bishop still employed at  
 [13] Amtren?  
 [14] **A.** No.  
 [15] **Q.** Why did he leave?  
 [16] **A.** He quit, but I'm not sure of all  
 [17] the reasons.  
 [18] **Q.** What did Mike Bishop tell you?  
 [19] **A.** He just said that he was moving  
 [20] on to own his own business.  
 [21] **Q.** Let me rephrase that question.  
 [22] **A.** Uh-huh.  
 [23] **Q.** What did Mike Bishop tell you to

[1] any racial slurs?  
 [2] **A.** Not that I recall.  
 [3] **Q.** And Mike Bishop is the only  
 [4] person that you were making reference to  
 [5] when you make the statement you've learned  
 [6] that he – that Lamberth expressed bias to  
 [7] other management staff; is that correct?  
 [8] **A.** Yes.  
 [9] **Q.** In response to my question about  
 [10] the reasons you think you were terminated,  
 [11] because of your sex and color, you stated  
 [12] you were treated differently than the other  
 [13] males. You previously answered that  
 [14] question. Is there anything else that you  
 [15] want to add to that, as to how you were  
 [16] treated differently than males?  
 [17] **A.** Not at this time.  
 [18] **Q.** And you also testified that your  
 [19] duties were more female stereotypical.  
 [20] You've testified about that previously as  
 [21] far as ordering lunch, et cetera. Anything  
 [22] else other than what you've already told me?  
 [23] **A.** Not at this time.

Page 117

Page 119

[1] Q. Well, does that mean at some  
[2] later time you're going to have something  
[3] else, Ms. McCollum? The purpose of this  
[4] deposition is to find out what you contend  
[5] was done to you wrong. Now, your response,  
[6] not at this time, implies that there may be  
[7] something at some later time. I'm trying to  
[8] find out at this point in time, is there  
[9] anything else regarding these duties that  
[10] you consider was female stereotypical?

[11] A. Not at this point in time.

[12] MR. TRAWICK: Let's mark this as  
[13] Defendant's Exhibit 5.

[14] (Whereupon, a document was  
[15] marked as Defendant's Exhibit 5 and is  
[16] attached to the original transcript.)

[17] Q. Let me show you what has been  
[18] marked as Defendant's Exhibit 5, which are  
[19] documents numbered 0012, 13, and 14 that  
[20] were produced to your lawyer by the  
[21] defendant in this case. Take a look at  
[22] those documents.

[23] A. (Witness reviews documents.)

[1] responsible for making the tax payments, the  
[2] payroll taxes on behalf of Amtren, were  
[3] there any penalties assessed against Amtren?

[4] A. You know, I would have to see  
[5] all the documentation. I mean, I – I know  
[6] that there was – when I first started  
[7] there, there was a penalty for failure of  
[8] not paying state payroll taxes for three  
[9] months. But that would not have been – I  
[10] mean, I wasn't even there then.

[11] Q. You learned about that after you  
[12] started working for Amtren; is that correct?

[13] A. Yes.

[14] Q. Is it your testimony that you  
[15] cannot recall, during the time that you  
[16] worked there and the time that you were  
[17] responsible for making the tax payments on  
[18] behalf of Amtren, any penalty being  
[19] assessed?

[20] A. There may have been, but I would  
[21] not be able to answer that question fully  
[22] without looking at all the documentation.  
[23] Do I recall any penalty at all? Is that

Page 118

Page 120

[1] Q. What are those documents?

[2] A. It appears to me – well, what  
[3] it is, it's just a statement from the  
[4] Internal Revenue Service stating a penalty,  
[5] federal tax liability – for federal tax  
[6] liability.

[7] Q. For Amtren?

[8] A. I don't see where it's directed  
[9] to Amtren. I don't know.

[10] Q. Have you seen these documents  
[11] before?

[12] A. I believe I have.

[13] Q. Tell me what context you saw  
[14] these documents in.

[15] A. I believe it was in the  
[16] paperwork that was requested by my lawyer.

[17] Q. When you performed your duties  
[18] at Amtren, did you see these documents?

[19] A. I don't know. I may have. I  
[20] don't know. I mean, you're asking me to  
[21] remember. I don't know.

[22] Q. Let me ask you this question,  
[23] then. During the time that you were

[1] your question?

[2] Q. That's my question. Yes.

[3] A. Probably, yes.

[4] Q. Probably?

[5] A. Uh-huh. Yes.

[6] Q. Tell me what you recall about  
[7] the penalty that was assessed against  
[8] Amtren.

[9] A. There was a penalty for the  
[10] three months of state taxes that was not  
[11] filed.

[12] Q. And I think you testified that  
[13] was before you got there; is that correct?

[14] A. I saw the – no. Well, the  
[15] three months that weren't filed happened  
[16] before I got there.

[17] Q. You told me about that.

[18] A. Okay.

[19] Q. Now, during the time that you  
[20] were there and the time that you were  
[21] responsible for making the payroll taxes to  
[22] the IRS and to the state, were there any  
[23] penalties assessed against Amtren?



Page 121

Page 123

[1] A. Yes, I believe so.  
 [2] Q. Tell me about those penalties.  
 [3] A. Okay. I just don't recall all  
 [4] what they were. I know that there were. I  
 [5] don't know exactly which form it was or  
 [6] which tax it was. I mean, I just don't  
 [7] recall.  
 [8] Q. Who was responsible for making  
 [9] those payroll taxes?  
 [10] A. That would be myself.  
 [11] Q. And it's your testimony that you  
 [12] don't recall anything about those penalties  
 [13] being assessed against Amtren, even though  
 [14] it was your responsibility, other than the  
 [15] fact that the penalties were assessed?  
 [16] A. There were penalties assessed.  
 [17] I don't recall --  
 [18] Q. More than one? On more than one  
 [19] occasion; is that correct?  
 [20] A. I believe so, but I don't recall  
 [21] which form it was, which tax it was.  
 [22] Q. I'm not asking you that. I'm  
 [23] asking you was it your responsibility to

[1] penalties. I know the state was due two or  
 [2] three months of nonpayment of payroll  
 [3] taxes.  
 [4] MR. TRAWICK: Excuse me a  
 [5] minute.  
 [6] (Off-the-record discussion.)  
 [7] Q. (By Mr. Trawick) Ms. McCollum,  
 [8] you would agree that a penalty of several  
 [9] thousand dollars is a significant penalty?  
 [10] A. Yes, I would.  
 [11] Q. And these -- you've already  
 [12] testified that these penalties were assessed  
 [13] during the time that you had the  
 [14] responsibility for making the payroll taxes;  
 [15] is that correct?  
 [16] A. That's not correct. I don't  
 [17] know when the penalties were assessed. I  
 [18] don't know. I just know that there were  
 [19] some. I don't -- you're referring to  
 [20] this --  
 [21] Q. No, I'm not referring to  
 [22] Defendant's Exhibit 5. You testified  
 [23] previously that penalties were assessed

Page 122

Page 124

[1] make those payments in a timely fashion?  
 [2] A. Yes.  
 [3] Q. Did you fail to make those  
 [4] payments in a timely fashion and, thus, a  
 [5] penalty was assessed?  
 [6] A. No.  
 [7] Q. Why was the penalty assessed,  
 [8] then?  
 [9] A. I would need to see the  
 [10] documentation. I'm not sure.  
 [11] Q. You don't know; is that correct?  
 [12] A. I'm not sure.  
 [13] Q. And you're saying it wasn't  
 [14] your --  
 [15] A. I don't see Amtren's name on  
 [16] there at all.  
 [17] Q. You've previously testified that  
 [18] on more than one occasion penalties were  
 [19] assessed against Amtren, either by the state  
 [20] or by the federal government for late tax  
 [21] payments; is that correct?  
 [22] A. I'm not sure what the penalties  
 [23] were for. I know there were some

[1] against Amtren during the time that you were  
 [2] responsible for making the payroll tax  
 [3] payments to the federal government and to  
 [4] the state government; correct?  
 [5] A. There were penalties assessed.  
 [6] Q. Okay. It was on more --  
 [7] A. I do not know if it was for  
 [8] payroll taxes or for which tax it was for.  
 [9] There were a number of taxes.  
 [10] Q. Let me rephrase the question,  
 [11] then.  
 [12] A. Uh-huh.  
 [13] Q. During the time that you worked  
 [14] for Amtren, were there ever any penalties  
 [15] assessed for the late payment of payroll  
 [16] taxes or the incorrect payment of payroll  
 [17] taxes?  
 [18] A. I'm not sure. I mean, there  
 [19] were penalties, but I'm not sure which tax  
 [20] it was for.  
 [21] Q. Was someone else responsible for  
 [22] making tax payments, then, other than you?  
 [23] A. Tax payments is pretty broad.



Page 125

Page 127

[1] Are you saying payroll tax payments? I was  
[2] responsible –

[3] Q. Ms. McCollum, you just testified  
[4] that during the time that you worked at  
[5] Amtren, there were penalties assessed  
[6] regarding taxes.

[7] A. Yes. But I don't know which tax  
[8] it was.

[9] Q. And my question is, was anyone  
[10] else responsible for ensuring that those  
[11] taxes were paid timely or paid correctly,  
[12] other than you?

[13] A. Not – it was just me.

[14] Q. We've established that, then.

[15] A. Okay.

[16] Q. And is it your testimony that  
[17] sitting here today you have no recollection  
[18] of the reasons those penalties were  
[19] assessed?

[20] A. Not at this time.

[21] Q. All right. Is it your  
[22] testimony, Ms. McCollum, that these  
[23] penalties were not the result of your errors

[1] A. I'm just not sure.

[2] Q. Then it could be because of your  
[3] duties?

[4] A. It could be.

[5] Q. Okay. You just don't have any  
[6] recollection of the facts as to why these  
[7] penalties were assessed; is that correct?

[8] A. Like I said, it could have  
[9] been. I just would need to see it.

[10] Q. Let me show you what's been  
[11] marked as Defendant's Exhibit 6, which are  
[12] documents number 0297, 298, and 299, which  
[13] were produced to your lawyer.

[14] (Whereupon, a document was  
[15] marked as Defendant's Exhibit 6 and is  
[16] attached to the original transcript.)

[17] A. Okay.

[18] Q. Take a look at those documents.

[19] A. (Witness reviews documents.)

[20] Okay.

[21] Q. You would agree that that's –  
[22] strike that. Tell me what those documents  
[23] are that are marked as Defendant's Exhibit

Page 126

Page 128

[1] and omissions?

[2] A. I don't know what penalty you're  
[3] talking about.

[4] Q. Ms. McCollum, you testified –

[5] A. That there were penalties.

[6] Q. Yes. And my question is, is it  
[7] your testimony those penalties were not  
[8] assessed because of your errors and  
[9] omissions?

[10] A. I'm not sure. I would have to  
[11] look at the paperwork.

[12] Q. Ms. McCollum, this is not a  
[13] difficult question.

[14] A. Uh-huh.

[15] Q. You're obviously a very  
[16] intelligent woman, and you've previously  
[17] testified that penalties being assessed are  
[18] something that is significant.

[19] A. Yes.

[20] Q. And it's your testimony you  
[21] don't know if these penalties were assessed  
[22] because of something you failed to do or  
[23] not?

[1] 6.

[2] A. It's a notice saying that they  
[3] have changed the balances in the federal tax  
[4] deposits for the quarter, and this would be  
[5] for tax period December 31, 2004.

[6] Q. And why would there be changes  
[7] made by the IRS? Let me ask you this  
[8] question, then. Strike that. Did you  
[9] receive this document when you were employed  
[10] at Amtren?

[11] A. I may have. I received many  
[12] documents. I can't pinpoint exactly.

[13] Q. I think, as Mr. Lamberth pointed  
[14] out just a second ago, Defendant's Exhibit 6  
[15] and Defendant's Exhibit 5 go together.  
[16] Would you agree with that?

[17] A. Let's see. Deposits  
[18] insufficient – yes, it appears that it  
[19] does.

[20] Q. Okay. During the time that you  
[21] worked with Amtren, do you recall receiving  
[22] the documents, Defendant's Exhibit 6 and 5?

[23] A. Yes, I believe I did.

Page 129

Page 131

[1] Q. Defendant's Exhibit 6 states, we  
[2] changed your tax return because we found a  
[3] calculation error. Did I read that  
[4] correctly?

[5] A. Yes.

[6] Q. Who is responsible for filing  
[7] the returns that these documents,  
[8] Defendant's Exhibit 5 and 6, apply to?

[9] A. I was responsible.

[10] Q. And as a result of the  
[11] calculation error or the errors in those  
[12] documents, is it correct that Amtren was  
[13] assessed a penalty of \$1,012.05?

[14] A. According to this letter, they  
[15] were. I wonder if they paid that penalty.

[16] Q. Who would have been responsible  
[17] for paying it?

[18] A. Well, let's see. This right  
[19] here -- sometimes you can do some things.  
[20] This right here is a 941, probably not due  
[21] until January 31st. This is dated March  
[22] 14th, 2005. So I was terminated on April  
[23] 8th. So that notice was just before my

[1] Q. Who was responsible for filling  
[2] out the 941s?

[3] A. I was.

[4] Q. Would you agree that,  
[5] apparently, the 941s were filled out  
[6] incorrectly?

[7] A. Yes. But it was corrected.

[8] Q. It was corrected by the IRS and  
[9] a penalty was assessed; is that correct?

[10] A. That is incorrect.

[11] Q. Well, who corrected it then?

[12] A. I believe I did.

[13] Q. It's your testimony that you  
[14] submitted an incorrect IRS form and the IRS  
[15] notified you that Amtren is being assessed  
[16] this penalty because you submitted an  
[17] incorrect form?

[18] A. And when I called the Internal  
[19] Revenue Service, we determined, I believe,  
[20] that it was the weeks that were incorrect  
[21] and -- I don't believe Amtren ever paid the  
[22] penalty.

[23] Q. That's not my question. Listen

Page 130

Page 132

[1] termination.

[2] Q. But you agree that this notice  
[3] that's identified as Defendant's Exhibits 5  
[4] and 6 pertain to the time that you had  
[5] responsibility for performing these duties;  
[6] is that correct?

[7] A. Yes.

[8] Q. And you will agree that because  
[9] you failed to perform your duties correctly,  
[10] Amtren was assessed a penalty of \$1,012.05;  
[11] is that correct?

[12] A. I would not agree with that.

[13] Q. Why was Amtren assessed that  
[14] penalty, then?

[15] A. According to this, it was  
[16] because of a calculation error. But that  
[17] could be a lot of different things. For one  
[18] thing, if I recall correctly, this right  
[19] here, when I received this notice, most of  
[20] it was due to the fact that the incorrect  
[21] week numbers were listed on the 941. But  
[22] again, I would have to see the 941s to be  
[23] able to --

[1] to my question. I think the testimony is  
[2] going to show they had to pay it, but that's  
[3] not material at this point. You will agree  
[4] -- strike that. Is it correct that this  
[5] penalty was assessed because of an error you  
[6] made in filing the forms on behalf of  
[7] Amtren?

[8] A. It would appear to be.

[9] Q. When you received the documents  
[10] identified as Exhibits 5 and 6, did you  
[11] inform Mr. Lamberth of this problem?

[12] A. Yes, I believe did.

[13] Q. What did you tell him?

[14] A. To the best of my memory, that  
[15] there was a penalty; that I was researching  
[16] it and would try to correct it. But I don't  
[17] recall -- I do believe I informed him about  
[18] it, though.

[19] Q. Was anyone present when you told  
[20] him about this?

[21] A. No.

[22] Q. Did you correct this error  
[23] before you left?

Page 133

Page 135

[1] A. I believe I did. I believe I  
[2] did.  
[3] Q. Whose handwriting is this on the  
[4] first page of Defendant's Exhibit 6 that has  
[5] some numbers, 94-11342?  
[6] A. I have no idea.  
[7] Q. That's not your handwriting?  
[8] A. No.  
[9] Q. Is this 185 here your  
[10] handwriting?  
[11] A. It doesn't look like it.  
[12] Q. Let me direct your attention to  
[13] document number 0298, which is a part of  
[14] Defendant's Exhibit 6. This indicates a  
[15] balance due of \$1,556.56; is that correct?  
[16] A. That is what this says, yes.  
[17] Q. Do you know what that dollar  
[18] amount represents?  
[19] A. I'm not real sure. I would have  
[20] to study the 941.  
[21] Q. It is your testimony that you  
[22] took care of this before you left; is that  
[23] correct?

[1] paid here as in Defendant's Exhibit 6?  
[2] A. This is 1556 plus 271. So, no,  
[3] they don't agree.  
[4] Q. Is the penalty that's identified  
[5] in Defendant's Exhibit 7, the penalty that  
[6] you think you took care of prior to leaving?  
[7] A. I'm not sure.  
[8] Q. What period is this penalty --  
[9] strike that. Let me direct your attention  
[10] to Defendant's Exhibit 7. What notice does  
[11] this tax period indicate? What is the tax  
[12] period that this notice indicates it applies  
[13] to?  
[14] A. It says here tax period  
[15] 12/31/2004.  
[16] Q. May I see the document?  
[17] A. Sure.  
[18] Q. Is it correct that during the  
[19] tax period ending December 31, 2004 you were  
[20] responsible for making the tax payments to  
[21] the IRS?  
[22] A. On the 941s, yes.  
[23] Q. Does this apply to a 941?

Page 134

Page 136

[1] A. I said I believe I did.  
[2] Q. Let me show you what has been  
[3] marked Defendant's Exhibit 7. Documents  
[4] number 0302 and 0303. Have you ever seen  
[5] these documents before?  
[6] (Whereupon, a document was  
[7] marked as Defendant's Exhibit 7 and is  
[8] attached to the original transcript.)  
[9] A. (Witness reviews documents.)  
[10] I'm not sure.  
[11] Q. What is the date --  
[12] A. I probably did.  
[13] Q. What's the date of the document  
[14] up in the right-hand corner?  
[15] A. 4/18/2005.  
[16] Q. You would agree that that amount  
[17] identified in the document, Defendant's  
[18] Exhibit 6, is the same amount in -- strike  
[19] that. You would agree that the amount in  
[20] which the IRS is demanding payment in  
[21] Defendant's Exhibit 7 of \$1,594.56 is the  
[22] same amount here, plus the additional  
[23] penalty that's added here for it not being

[1] A. Yes.  
[2] Q. Defendant's Exhibit 7 applies to  
[3] a 941; is that correct?  
[4] A. Is that 7?  
[5] Q. Yes.  
[6] A. Yes.  
[7] Q. Is it correct that Defendant's  
[8] Exhibit 7 indicates that these taxes were  
[9] not paid timely?  
[10] A. I really don't know what it's  
[11] trying to indicate. I can't tell.  
[12] Q. You would agree that that notice  
[13] indicates that there's an interest and  
[14] penalty because the taxes were not timely  
[15] paid; is that correct?  
[16] A. That's what the notice says, our  
[17] records indicate you haven't paid the amount  
[18] you owe.  
[19] Q. It is your responsibility for  
[20] making certain those taxes were being paid  
[21] during that time frame; is that correct?  
[22] A. Yes.  
[23] Q. Would you agree that that was an

Page 137

Page 139

[1] error on your part?  
 [2] **A.** No.  
 [3] **Q.** Why was it not an error?  
 [4] **A.** I need to see all the forms and  
 [5] see exactly what happened before I would  
 [6] make that statement on my part.  
 [7] **Q.** Is it your testimony that you do  
 [8] not recall the circumstances under -- why  
 [9] the taxes were not paid for the tax period  
 [10] ending December 31, 2004?  
 [11] **A.** I don't recall. But that's what  
 [12] that notice says.  
 [13] **MR. JACOBS:** Rick, can we take a  
 [14] short break?  
 [15] **MR. TRAWICK:** Sure.  
 [16] (Brief recess.)  
 [17] **Q.** (By Mr. Trawick) Let me show  
 [18] you what has been marked Defendant's Exhibit  
 [19] 8 that is -- consists of documents 0024, 25,  
 [20] 26, and 27 that have been produced to your  
 [21] attorney and ask if you've seen those  
 [22] documents before.  
 [23] (Whereupon, a document was

[1] filed were not correct?  
 [2] **A.** May I see that document?  
 [3] **Q.** Sure.  
 [4] **A.** Please ask your question again.  
 [5] **Q.** Would you agree that documents  
 [6] identified as Defendants's Exhibit 6  
 [7] indicate that the IRS is telling Amtren that  
 [8] the tax documents you filed were not  
 [9] correct?  
 [10] **A.** That's what it's saying, yes.  
 [11] **Q.** Let me show you what's been  
 [12] marked as Defendant's Exhibit 9, which is  
 [13] also document number 0030. Take a second  
 [14] and look at that document.  
 [15] (Whereupon, a document was  
 [16] marked as Defendant's Exhibit 9 and is  
 [17] attached to the original transcript.)  
 [18] **A.** (Witness reviews document.)  
 [19] Okay.  
 [20] **Q.** What is the tax period that that  
 [21] document references?  
 [22] **A.** March 31, 2004.  
 [23] **Q.** Tax period ending on March 31,

Page 138

Page 140

[1] marked as Defendant's Exhibit 8 and is  
 [2] attached to the original transcript.)  
 [3] **A.** Probably in the package  
 [4] documents.  
 [5] **Q.** Do you know what those documents  
 [6] are?  
 [7] **A.** This shows -- this is a notice.  
 [8] I mean, it's a notice from the IRS.  
 [9] **Q.** Have you seen documents like  
 [10] this before?  
 [11] **A.** I've seen documents like this,  
 [12] yes.  
 [13] **Q.** You would agree this is for the  
 [14] tax period ending March 31, 2005; is that  
 [15] correct?  
 [16] **A.** Yes.  
 [17] **Q.** And is it correct that for the  
 [18] tax period ending March 31, 2005 you were  
 [19] responsible for filing the taxes on behalf  
 [20] of Amtren?  
 [21] **A.** Yes.  
 [22] **Q.** Would you agree that this  
 [23] indicates that the tax returns that you

[1] 2004?  
 [2] **A.** That's what it says, yes.  
 [3] **Q.** Do you recall receiving that  
 [4] document?  
 [5] **A.** I may have, yes.  
 [6] **Q.** In fact, the date of the notice  
 [7] of the document is April 12, 2004; is that  
 [8] correct?  
 [9] **A.** Yes.  
 [10] **Q.** Is it also correct that these  
 [11] type of documents would have gone to you at  
 [12] Amtren?  
 [13] **A.** Yes.  
 [14] **Q.** Is it also correct that this  
 [15] document indicates that -- this document,  
 [16] meaning Defendant's Exhibit 9, indicates  
 [17] that the tax documents that you filed on  
 [18] behalf of Amtren were incorrect?  
 [19] **A.** No. I believe all this document  
 [20] states is they could not identify the tax  
 [21] period -- that's all -- on the remittance.  
 [22] It's not saying anything was incorrect.  
 [23] **Q.** Who was responsible for

<p style="text-align: right;">Page 141</p> <p>[1] indicating the tax period on the federal tax [2] deposit? [3] A. You know, I would have to see [4] the records, but I believe at that point in [5] time, it was the bank, MidSouth Bank in [6] Dothan. [7] Q. Did you bring this to the [8] attention of Mr. Lamberth? [9] A. I don't recall. [10] Q. Is this something you would have [11] typically brought to his attention or should [12] have brought to his attention? [13] A. I may have. I may not have. I [14] don't think that would have been a -- all I [15] it's saying is they couldn't identify the [16] tax period. That's all it's saying. [17] Q. Is this something you should [18] have brought to the attention of [19] Mr. Lamberth? [20] A. Maybe so. [21] Q. Yes or no? It's a simple [22] question. [23] A. Yes.</p>	<p style="text-align: right;">Page 143</p> <p>[1] when you stopped filling out the form? [2] A. I said I don't believe it was. [3] Q. So could have been? [4] A. Could have been. [5] Q. Let me show you what's been [6] marked as Defendant's Exhibit 10. Take a [7] look at that document. [8] (Whereupon, a document was [9] marked as Defendant's Exhibit 10 and is [10] attached to the original transcript.) [11] A. (Witness reviews document.) [12] Uh-huh. [13] Q. Do you recall receiving that [14] document? [15] A. I probably did. [16] Q. Okay. What's that document [17] indicate? [18] A. Can I see this one? [19] Q. Sure. This one meaning [20] Defendant's Exhibit 9? [21] A. Yes. [22] Q. Okay. [23] A. Okay. Indicates they could not</p>
<p style="text-align: right;">Page 142</p> <p>[1] Q. Did you bring it to his [2] attention? [3] A. I don't recall. I probably did. [4] Q. And it's your testimony that [5] this was an error on the bank's part, not [6] your part; is that correct? [7] A. I'm not sure. [8] Q. Could have been an error on your [9] part? [10] A. Probably not. Not during that [11] time period, no. [12] Q. Why not? [13] A. Because I didn't remit the tax [14] during that time. I mean, I didn't actually [15] fill out the form. [16] Q. Who filled out the form? [17] A. I believe it was the bank. [18] Q. When did you stop filling out [19] the form? [20] A. I don't remember. I'll have to [21] look at the records to -- [22] Q. Then how do you know it wasn't [23] during this time frame if you don't remember</p>	<p style="text-align: right;">Page 144</p> <p>[1] determine the tax period once again. [2] Q. On another document? On another [3] tax return; is that correct? [4] A. Payroll tax remittance. Yes. [5] Q. Is this something you should [6] have brought to the attention of [7] Mr. Lamberth? [8] A. Yes. Sure. [9] Q. Is it correct that you do not [10] know whether or not you filled out the tax [11] form that Defendant's Exhibit 10 applies to [12] or the bank? [13] A. I'm pretty sure it wasn't me. [14] Q. Why's that? [15] A. I had just started that January [16] of 2004. That's dated March 2004. The bank [17] was, I believe, doing it at that time. [18] Q. Okay. And it's your testimony [19] you don't recall when you started doing it; [20] is that correct? [21] A. That's correct. [22] Q. Let me show you what's been [23] marked Defendant's Exhibit 11, which is also</p>



<p style="text-align: right;">Page 145</p> <p>[1] document 0032. Do you recall receiving this</p> <p>[2] document?</p> <p>[3] (Whereupon, a document was</p> <p>[4] marked as Defendant's Exhibit 11 and is</p> <p>[5] attached to the original transcript.)</p> <p>[6] A. I probably did.</p> <p>[7] Q. Is it correct that this document</p> <p>[8] is notifying you that there's a problem with</p> <p>[9] the tax return that was filed on behalf --</p> <p>[10] A. Again, it was the same thing.</p> <p>[11] They just couldn't determine the tax</p> <p>[12] period --</p> <p>[13] Q. Who did you talk with at the</p> <p>[14] bank about this problem?</p> <p>[15] A. I don't remember. I don't</p> <p>[16] remember talking to the bank about it. I</p> <p>[17] don't know. I just don't recall. It was a</p> <p>[18] long time ago.</p> <p>[19] Q. You would agree that this is a</p> <p>[20] significant problem that's identified in</p> <p>[21] Defendant's Exhibits 9, 10, and 11, that tax</p> <p>[22] returns are not being filed correctly?</p> <p>[23] A. I would agree that it is an</p>	<p style="text-align: right;">Page 147</p> <p>[1] is that correct?</p> <p>[2] A. Yes.</p> <p>[3] Q. Were there ever any problems</p> <p>[4] with those payments?</p> <p>[5] A. Not that I would consider major</p> <p>[6] problems. They were all paid.</p> <p>[7] Q. What were the minor problems,</p> <p>[8] then?</p> <p>[9] A. Well, I don't -- in my opinion,</p> <p>[10] there weren't any as far as payment.</p> <p>[11] Q. Were the payments always on</p> <p>[12] time?</p> <p>[13] A. They were in a timely fashion.</p> <p>[14] Q. That's not my question. Do you</p> <p>[15] want me to repeat my question?</p> <p>[16] A. They were made in a timely</p> <p>[17] fashion.</p> <p>[18] Q. Were they made by the date that</p> <p>[19] they were due?</p> <p>[20] A. I believe they were.</p> <p>[21] Q. Were the insurance payments made</p> <p>[22] in advance of the time period -- let me</p> <p>[23] rephrase that. It's a bad question. Were</p>
<p style="text-align: right;">Page 146</p> <p>[1] issue that needed to be corrected if the IRS</p> <p>[2] couldn't determine the tax periods.</p> <p>[3] Q. Okay. And you don't recall</p> <p>[4] whether or not you filed those returns or</p> <p>[5] whether or not the bank filed those returns;</p> <p>[6] is that correct?</p> <p>[7] A. The remittance, that would be</p> <p>[8] correct. I do not recall, but I believe it</p> <p>[9] was the bank. Excuse me. Let me retract</p> <p>[10] that, because I had just started working</p> <p>[11] there.</p> <p>[12] Q. And you don't recall talking to</p> <p>[13] the bank about this problem?</p> <p>[14] A. I don't remember.</p> <p>[15] Q. Is it correct you did not recall</p> <p>[16] at this time discussing this issue with the</p> <p>[17] bank?</p> <p>[18] A. I don't really remember, but I</p> <p>[19] may have.</p> <p>[20] Q. You previously testified that it</p> <p>[21] was your responsibility during the time that</p> <p>[22] you were at Amtren to make the payments on</p> <p>[23] behalf of Amtren to Blue Cross Blue Shield;</p>	<p style="text-align: right;">Page 148</p> <p>[1] the insurance payments made monthly or</p> <p>[2] quarterly?</p> <p>[3] A. I believe it was monthly.</p> <p>[4] Q. Is it correct that, for example,</p> <p>[5] the payment for the month of March would</p> <p>[6] have been due in February?</p> <p>[7] A. I'm not really sure exactly when</p> <p>[8] it would have been due. I would need to see</p> <p>[9] an invoice.</p> <p>[10] Q. You don't recall one way or the</p> <p>[11] other?</p> <p>[12] A. To the best of my recollection,</p> <p>[13] it would have been due by the 10th of the</p> <p>[14] month that it was covering, or the 5th. I</p> <p>[15] don't exactly remember, but it was not -- to</p> <p>[16] the best of my knowledge, you know, if it</p> <p>[17] was to cover the month of March, it would</p> <p>[18] have been due March 1st.</p> <p>[19] Q. Let me show you what's been</p> <p>[20] marked as Defendant's Exhibit 12. Do you</p> <p>[21] recall receiving this document from Blue</p> <p>[22] Cross Blue Shield?</p> <p>[23] (Whereupon, a document was</p>



Page 169

Page 171

[1] Q. What was the process by which  
[2] Amtren would pay that charge back?  
[3] A. I'm not sure.  
[4] Q. Did you ever receive any  
[5] documentation that either Chase Merchant  
[6] Services or a credit card company had made a  
[7] draft on Amtren's checking accounts for a  
[8] charge back?  
[9] A. Okay. That may be the way they  
[10] got it through the bank. Yeah. You're  
[11] right. I'm sorry.  
[12] Q. It is correct that those kinds  
[13] of documents came to you, and you were  
[14] advised of that since you were responsible  
[15] for the checking accounts?  
[16] A. I was responsible for the  
[17] checking account, and I assume those  
[18] documents would have come to me, yes.  
[19] Q. So even though you don't recall  
[20] at the present time other than there were  
[21] some charge backs, you would have been  
[22] notified through some documentation that  
[23] either Chase Merchant Services or a credit

[1] Q. You would get some kind of  
[2] documentation from whoever deducted the  
[3] money from the account that we deducted X  
[4] amount of dollars and here's the reason we  
[5] deducted X amount of dollars; is that  
[6] correct?  
[7] A. I would assume so.  
[8] Q. And you routinely received such  
[9] documentation, did you not?  
[10] A. I probably did.  
[11] Q. Ms. McCollum, this is nuts.  
[12] Strike that. Is it your testimony that  
[13] sitting here today, you don't recall what  
[14] your duties were regarding the balancing of  
[15] checking accounts and whether or not you  
[16] received any documentation from companies  
[17] that they were deducting money from Amtren's  
[18] checking account?  
[19] A. No, that is not my testimony.  
[20] Q. Is it correct, then, that you  
[21] routinely received documentation from Chase  
[22] Merchant Services or other processing  
[23] companies that money was being deducted from

Page 170

Page 172

[1] card processing company had attempted to  
[2] deduct some money from Amtren's checking  
[3] account because of a charge back; is that  
[4] correct?  
[5] A. I would assume they would notify  
[6] me, yes.  
[7] Q. Are you testifying they could  
[8] have deducted money from Amtren's checking  
[9] accounts and you wouldn't have known  
[10] anything about it?  
[11] A. They couldn't have done it if  
[12] somebody didn't give them authorization, and  
[13] that would have been Kirk Lamberth.  
[14] Q. Okay. Assuming they had  
[15] authorization, is it your testimony that  
[16] they could have deducted the money and you  
[17] would not have known through any  
[18] documentation that the money was deducted  
[19] from the account?  
[20] A. I would know the money was  
[21] deducted from the account, because I  
[22] reconciled the bank statement. So I'd know  
[23] if money was deducted from the account.

[1] Amtren's checking account?  
[2] A. I don't recall receiving the  
[3] exact documentation. I would have known the  
[4] money was deducted because I reconciled the  
[5] bank accounts.  
[6] Q. How would you have known the  
[7] money was deducted?  
[8] A. Because I reconciled the bank  
[9] accounts.  
[10] Q. You would get some kind of  
[11] document indicating that money was deducted  
[12] from the account, would you not?  
[13] A. I may have.  
[14] Q. How --  
[15] A. I mean, I'm just saying, I may  
[16] have. But it would have been deducted from  
[17] the account. When you reconciled the bank  
[18] statement, you would see the money being  
[19] removed and by whom.  
[20] Q. Would there be any notification  
[21] other than the bank statement that you  
[22] received from the bank?  
[23] A. There may have been.

Page 173

Page 175

[1] Q. What kind of documentation would  
[2] that have been, then?  
[3] A. I would assume a notice of some  
[4] sort, you know. I'm not really sure.  
[5] Q. You just don't recall ever  
[6] receiving a notice, then, that money was  
[7] being deducted?  
[8] A. I said I may have.  
[9] Q. Okay. Were there ever occasions  
[10] when the Chase Merchant Services attempted  
[11] to deduct the money from Amtren's checking  
[12] account and there was not money in there  
[13] sufficient for that deduction?  
[14] A. That may have been possible. I  
[15] just don't know. I would have to see the  
[16] bank account.  
[17] Q. You don't recall any specific  
[18] incident when that happened?  
[19] A. I don't recall.  
[20] Q. Whose responsibility would it  
[21] have been to ensure that there was enough  
[22] money in that account to cover that  
[23] deduction?

[1] a significant problem — or at least a  
[2] problem. You wouldn't say it was  
[3] significant. But it was at least a problem  
[4] that Amtren encountered.  
[5] A. Yes, it was a problem. The  
[6] credit card processing was definitely a  
[7] problem.  
[8] Q. And my question is, prior to  
[9] receiving Defendant's Exhibit 14, were there  
[10] occasions when you received notification  
[11] from Chase Merchant Services that they  
[12] attempted to deduct money from Amtren's  
[13] account to process charges when there was  
[14] not sufficient funds in that account?  
[15] A. I may have.  
[16] Q. But you don't recall that?  
[17] A. I don't.  
[18] Q. Even though it was a problem?  
[19] A. Right.  
[20] Q. Let me show you what's been  
[21] marked as Defendant's Exhibit 15 and ask you  
[22] if you recall seeing that document.  
[23] (Whereupon, a document was

Page 174

Page 176

[1] A. It was my responsibility to  
[2] maintain the checking account, if that's  
[3] what you're asking.  
[4] Q. And it would have been your  
[5] responsibility to ensure that there were  
[6] sufficient funds in that account to cover  
[7] any deductions that Chase Merchant Services  
[8] may have made?  
[9] A. I don't believe that would have  
[10] been all my responsibility.  
[11] Q. Whose responsibility would it  
[12] have been?  
[13] A. There's a lot of factors  
[14] involved. You just can't sit there and say  
[15] — there's just a lot of factors involved.  
[16] Q. What factors?  
[17] A. Ask the question again. I'm  
[18] getting tired. I'm sorry.  
[19] Q. So am I.  
[20] A. Okay. And I'm trying to  
[21] remember. This was two years ago. It's  
[22] been a long time.  
[23] Q. We've established that this was

[1] marked as Defendant's Exhibit 15 and is  
[2] attached to the original transcript.)  
[3] A. Yes, I do.  
[4] Q. Tell me about that document.  
[5] A. It's a lease agreement for a  
[6] copier.  
[7] Q. Did you get approval to enter  
[8] into this lease agreement?  
[9] A. Yes.  
[10] Q. Who gave you that approval?  
[11] A. Mr. Lamberth.  
[12] Q. When did he give you that  
[13] approval?  
[14] A. Prior to me turning in the  
[15] agreement.  
[16] Q. Okay. During the time that you  
[17] were responsible for Amtren's checking  
[18] accounts, were there occasions when the  
[19] checking accounts did not have sufficient  
[20] funds in the accounts and there were charges  
[21] to Amtren because of insufficient funds?  
[22] A. Yes.  
[23] Q. Tell me about that.

Page 177

Page 179

[1] A. I'm not really sure. I couldn't  
[2] elaborate on that. I would have to look and  
[3] see exactly what the insufficient -- the  
[4] balances were and insufficient funds were  
[5] for.

[6] Q. Whose responsibility was it to  
[7] ensure that the checking accounts did not  
[8] have insufficient funds?

[9] A. I guess it was mine.

[10] Q. You would agree that that was an  
[11] error, then?

[12] A. (No response.)

[13] Q. You may think it's funny, but I  
[14] don't think it's funny.

[15] A. I know you don't. That's okay.

[16] Q. Did you advise Mr. Lamberth that  
[17] Amtren was receiving insufficient funds  
[18] charges because of a lack of funds in the  
[19] checking accounts?

[20] A. I'm sure. I don't remember.  
[21] I'm sure I did, you know. He had access to  
[22] the on-line records. I just don't remember,  
[23] but I'm sure I did.

[1] Q. And it's your testimony you did  
[2] not receive document numbers 0046, 47, and  
[3] 48; is that correct?

[4] A. Yes.

[5] Q. Who would have received these  
[6] documents?

[7] A. I don't know.

[8] Q. Is it correct that documents 46  
[9] through 48 are invoices?

[10] A. 46 through 48, yes, that's what  
[11] it appears to be.

[12] Q. Is it correct that you would  
[13] have been responsible for paying these  
[14] invoices?

[15] A. Not those.

[16] Q. Why not these?

[17] A. That's after my termination  
[18] date.

[19] Q. That's correct. Is it correct  
[20] that documents 42, 43, 44 deal with the  
[21] purchase of the Mas90 system?

[22] A. I'm not sure what that is. I  
[23] believe that's what this is. Mas90, yeah.

Page 178

Page 180

[1] Q. Let me show you what's been  
[2] marked as Defendant's Exhibit 16, document  
[3] 0042 through 0048. Have you seen those  
[4] documents before?

[5] (Whereupon, a document was  
[6] marked as Defendant's Exhibit 16 and is  
[7] attached to the original transcript.)

[8] A. Yes. I believe these are the  
[9] ones --

[10] THE WITNESS: Didn't we receive  
[11] these in the packet?

[12] Q. (By Mr. Trawick) Let me  
[13] rephrase that question. Do you recall  
[14] receiving those documents during the time  
[15] you worked at Amtren?

[16] A. I couldn't have received those.

[17] Q. You could have received --

[18] A. I could not have received  
[19] those. And I believe I did receive these.

[20] Q. You received document numbers  
[21] 0042, 0043, and 0044 and 0045; is that  
[22] correct?

[23] A. Yes, I believe I did.

[1] But I don't know what that code means, that  
[2] code that's on there.

[3] Q. Mas90?

[4] A. Okay. Yes.

[5] Q. I believe you previously  
[6] testified that Bobby Lake was the person at  
[7] Wilson Price who, for lack of a better word,  
[8] trained you on Mas90?

[9] A. He was the consultant that  
[10] helped us install Mas90, yes.

[11] Q. Okay. Was there an occasion  
[12] when you informed Mr. Lake that his services  
[13] were no longer needed?

[14] A. I don't remember, you know,  
[15] telling him that, that his services were no  
[16] longer needed.

[17] Q. Did Amtren have a contract with  
[18] Wilson Price for a certain amount of  
[19] technical services on installing Mas90?

[20] A. Yes.

[21] Q. Did you ever reduce that amount  
[22] of technical service?

[23] A. I don't know. I may have to

Page 185

Page 187

[1] payable accounts?  
 [2] A. Sure, uh-huh.  
 [3] Q. And it's my understanding that  
 [4] Padus -- is that the way you pronounce it?  
 [5] A. I believe that's right. Padus.  
 [6] Q. Would send invoices to Amtren to  
 [7] be paid?  
 [8] A. Yes.  
 [9] Q. I believe it was your  
 [10] responsibility to ensure that those invoices  
 [11] were timely paid?  
 [12] A. Yes.  
 [13] Q. Were there ever any problems  
 [14] with Amtren making timely payments to Padus?  
 [15] A. When you say timely payments,  
 [16] what are the terms?  
 [17] Q. What do you mean by timely  
 [18] payments?  
 [19] A. We tried to pay all of our  
 [20] vendors within 45 days. Sometimes that  
 [21] worked out, and sometimes it didn't. It  
 [22] depended on cash flow.  
 [23] Q. Now, my question is, were there

[1] Q. Were the accounts paid within 45  
 [2] days?  
 [3] A. We tried to.  
 [4] Q. Does that mean that sometimes --  
 [5] A. I'm not going to sit here and  
 [6] say we paid every account in 45 days,  
 [7] because I don't know.  
 [8] Q. Do you know who Elisabetta  
 [9] Benetollo is?  
 [10] A. Does she work for Padus?  
 [11] Q. Yes. It's spelled  
 [12] E-L-I-S-A-B-E-T-T-A, B-E-N-E-T-O-L-L-O.  
 [13] A. Okay.  
 [14] Q. Do you recall her?  
 [15] A. I believe I do.  
 [16] Q. I spelled it for the court  
 [17] reporter, not you.  
 [18] A. I know that.  
 [19] Q. Did you ever have any problems  
 [20] with -- strike that. Do you recall  
 [21] discussing any problems with Ms. Benetollo  
 [22] about problems getting the invoices paid to  
 [23] Padus?

Page 186

Page 188

[1] problems with making timely payments to  
 [2] Padus?  
 [3] A. There may have been. I don't  
 [4] remember.  
 [5] Q. You don't recall any?  
 [6] A. I mean, I don't know. I would  
 [7] have to see the documents.  
 [8] Q. Well, were there lots of  
 [9] accounts that there were problems with  
 [10] making timely payments to?  
 [11] A. No, not in my opinion.  
 [12] Q. Then, if there was a problem  
 [13] with Padus, you should remember that, then;  
 [14] is that correct?  
 [15] A. Maybe I should. It's two years  
 [16] ago. I don't.  
 [17] Q. However, you do recall that  
 [18] there were problems with making timely  
 [19] payments to some of the accounts payable of  
 [20] Amtren; is that correct?  
 [21] A. No, I don't recall that. We  
 [22] tried to pay everybody in 45 days. You  
 [23] know, that was our terms.

[1] A. I don't remember the specifics.  
 [2] I would need to see the documents.  
 [3] Q. What do you remember generally?  
 [4] A. I remember talking to her, I  
 [5] believe. I don't know every piece of the  
 [6] conversation.  
 [7] Q. Well, do you recall generally  
 [8] what the problem was or problems were?  
 [9] A. I don't know if there was a  
 [10] problem.  
 [11] Q. You just don't know --  
 [12] A. If it's regarding payment. Like  
 [13] I said, we tried to pay everyone in 45 days.  
 [14] Q. Did you ever talk with  
 [15] Mr. Lamberth about problems with not paying  
 [16] everyone in 45 days?  
 [17] A. No, not that I remember.  
 [18] Mr. Lamberth was all for paying everybody in  
 [19] 45 days.  
 [20] Q. Was it your responsibility --  
 [21] strike that. Did you have any  
 [22] responsibility with the processing of orders  
 [23] from Amtren's customers?

Page 193

[1] A. Yes.

[2] Q. Were there occasions when you  
[3] incorrectly entered the bills of materials  
[4] into Mas?

[5] A. Might have been. But those  
[6] systems that Amtren manufactures has  
[7] anywhere from fifty to a hundred parts  
[8] listed on it. So there may have been.

[9] Q. However, today you don't recall  
[10] any specific incidents?

[11] A. I don't recall a specific  
[12] incident, no.

[13] MR. TRAWICK: Let's take a short  
[14] break. I'm about finished.

[15] (Brief recess.)

[16] MR. TRAWICK: I don't think I  
[17] have anything else. That's it.

[18]

[19]

[20] 3:55 p.m.

[21]

[22]

[23] FURTHER THE DEPONENT SAITH NOT

Page 194

[1] C E R T I F I C A T E

[2]

[3] STATE OF ALABAMA)

[4] COUNTY OF ELMORE)

[5]

[6] I hereby certify that the above and  
[7] foregoing deposition was taken down by me in  
[8] stenotype, and the questions and answers  
[9] thereto were transcribed by means of  
[10] computer-aided transcription, and that the  
[11] foregoing represents a true and correct  
[12] transcript of the deposition given by said  
[13] witness upon said hearing.

[14] I further certify that I am neither  
[15] of counsel nor of kin to the parties to the  
[16] action, nor am I in anywise interested in  
[17] the result of said cause.

[18]

[19]

Jennifer Davis, CSR

[20]

[21]

[22] My Commission expires

[23] October 11, 2010